

# Membership Balance Plan

## ENVIRONMENTAL PROTECTION AGENCY

### 1. FEDERAL ADVISORY COMMITTEE NAME

**Negotiated Rulemaking Committee to Negotiate a Proposed Rule to Limit Chemical Data Reporting for Certain Inorganic Byproducts under TSCA Section 8(a)**

### 2. AUTHORITY

The Negotiated Rulemaking Committee to Negotiate a Proposed Rule to Limit Chemical Data Reporting for Certain Inorganic Byproducts under TSCA Section 8(a) is established under the authority of TSCA section 8 (15 U.S.C. 2607), as amended by the Lautenberg Act (Pub. L. 114–182), and will be governed in accordance with the provisions of the Negotiated Rulemaking Act, 5 U.S.C. §§ 561 *et seq.*, and the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2.

### 3. MISSION/FUNCTION

*Describe the mission/function of the FAC*

The purpose of the Negotiated Rulemaking Committee is to negotiate a proposed rule that would limit chemical data reporting requirements under section 8(a) of the Toxic Substances Control Act (TSCA), as amended by the Frank. R. Lautenberg Chemical Safety for the 21st Century Act, Pub. L. No. 114-182, 140 Stat. 448 (2016), for manufacturers of any inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed. The purpose of the Negotiated Rulemaking Committee is to conduct discussions in a good faith attempt to reach consensus on proposed regulatory language. This negotiation process is required by section 8(a)(6) of TSCA.

### 4. POINTS OF VIEW

*Based on understanding the purpose of the FAC,*

- (a) describe the process that will be used to ensure the committee is balanced, and identify the categories*
- (b) consider identifying an anticipated relative distribution of candidates across the categories; and*
- (c) explain how a determination was made to appoint any individuals as Special Government Employees or Representative members*

In accordance with the Negotiated Rulemaking Act, the Negotiated Rulemaking Committee will be composed of approximately 35 representatives with interests that will be significantly affected by the proposed rule the Committee is charged with negotiating, including at least one member who will represent the EPA. Members will be persons who represent groups or organizations with interests relevant to chemical data reporting for inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed. Representatives will also have the necessary authority to negotiate and reach an agreement on behalf of their organization. EPA's plan to attain a fairly balanced membership included contacting industry representatives, environmental advocacy groups, state and tribal governments, and environmental justice advocacy groups. EPA also solicited committee members in a Federal Register notice announcing its intent to establish a negotiated rulemaking committee (81 FR 90843, December 15, 2016).

## 5. OTHER BALANCE FACTORS

*List any other factors EPA identifies as important in achieving a balanced FAC*

Geographic location may be considered.

## 6. CANDIDATE IDENTIFICATION PROCESS

*Summarize the process intended to be used to identify candidates for the FAC, key resources expected to be tapped to identify candidates and the key persons (by position, not name) who will evaluate FAC balance.*

*The summary should:*

- (a) describe the process*
- (b) identify EPA key staff involved (by position, not name)*
- (c) briefly describe how FAC vacancies, if any, will be handled by EPA*
- (d) state the membership term limit of FAC members, if applicable*

For appointment of members to the newly established Negotiated Rulemaking Committee, the DFO meets with EPA's Federal Advisory Committee Division (FACMD) to discuss the outreach plan, establish a timeline, and other issues concerning the membership package. After approval of the outreach plan the DFO conducts outreach to members in accordance with the plan.

Members will be persons who represent groups or organizations with interests relevant to chemical data reporting for inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed. Representatives will also have the necessary authority to negotiate and reach an agreement on behalf of their organization. EPA's plan to attain a fairly balanced membership includes contacting industry representatives, environmental advocacy groups, state and tribal governments, and environmental justice advocacy groups. EPA also solicited committee members in a Federal Register notice announcing its intent to establish a negotiated rulemaking committee (81 FR 90843, December 15, 2016).

After a review of the pool of nominees, a determination is made to consider whether additional outreach is needed. The DFO develops a draft grid of nominees, including at least one additional candidate for each point of view for the function the committee is to perform.

A balance review of the proposed membership is then conducted by FACMD and the Office of General Counsel. Different levels of EPA managers then review the draft package for questions or comments before the final package is prepared.

Formal letters of invitation to serve on the Committee will be extended by the Administrator or Deputy Administrator of EPA. This cycle will be repeated for any occurring vacancies. Members of the Committee may be appointed for a one to two-year term. Generally, members may be reappointed for a total of 6 years.

## 7. SUBCOMMITTEE BALANCE

*Subcommittees subject to FACA\* should either state that the process for determining FAC member balance on subcommittees is the same as the process for the parent FAC, or describe how it is different*

*\*This is relevant to those agencies that require their subcommittees to follow all FACA requirements.*

EPA plans to use the process that is used to determine advisory committee member balance for the parent (Tier 1) Federal advisory committee for any Tier 2 subcommittee(s) that may be created.

## 8. OTHER

*Provide any additional information that supports the balance of the FAC*

Not applicable.

<b>9. DATE PREPARED/UPDATED</b>
March 27, 2017